

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA Application No. 13938, of Oliver T. Carr, Jr. and George H. Beuchert, Jr., Trustees, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to allow a roof structure not meeting the normal setback requirements and for a variance from the prohibition against allowing roof structures greater than 18.5 feet in height (Paragraph 5201.24) in a C-4 District at premises 655 - 15th Street, N. W. (Square 224, Lot 22).

HEARING DATE: March 23 and April 6, 1983  
DECISION DATE: May 4, 1983

FINDINGS OF FACT:

1. The subject site is located on the east side of 15th Street between F and G Streets and is known as premises 655 15th Street, N. W. The subject site is Phase II of a larger development.

2. The entire site includes all of Square 224 between F, G, 14th and 15th Streets exclusive of Garfinckel's Department Store. It includes the first phase of the Metropolitan Square office-retail complex, recently completed, and the area planned for the second phase of that complex which currently contains the National Metropolitan Bank Building, a one-story building occupied by Perpetual - American Federal Savings, the Rhodes Tavern, a four-story building housing the Old Ebbitt Grill, and two three-story buildings housing offices and the Washington Federal Savings and Loan Association. North of Square 224 are office buildings in the C-4 District. To the west is the Treasury Building which is unzoned. To the south are the Washington and Willard Hotels in the C-5 (PAD) District. To the east are office and retail buildings in the C-4 District.

3. In April 1979, the developer, the Oliver T. Carr Company, began demolition of the Keith-Albee Building. After intensive study, legal action, and negotiations, the Office of Planning, the Oliver T. Carr Company, and Don't Tear It Down reached an agreement. That agreement called for the Oliver T. Carr Company to retain, at no cost to the District or the Federal Governments, the landmark facades of the Keith-Albee Building and the National Metropolitan Bank Building, with the District Government agreeing to support the total project, and to expedite necessary City actions,

approve the location and design of any or all such structures even if such structures do not meet the normal setback requirements of Paragraphs 3201.26, 4201.22, 4403.3, 4503.6, 5201.24 or 6201.22 when applicable, provided the intent and purpose of this section is not materially impaired thereby and the light and air of adjacent buildings are not affected adversely."

11. Paragraph 5201.24 of the Zoning Regulations states, "If erected or enlarged as provided in Section 5306, housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which located, provided such housing or penthouse is set back from all lot lines of the lot upon which such structure is located distance equal to it's height above the roof of the top story. . . . A roof structure shall not exceed 18 feet 6 inches in height above the roof upon which it is located."

12. The applicant seeks to provide full elevator service to the top of the building in order to fully comply with the D. C. Architectural Barriers Act and in order to make this phase of the building efficient and adaptable to tenant needs. The applicant testified that the proposed landscape roof area will be a major design amenity for users of the building. The Board so finds.

13. Several design requirements were imposed by the Mayor's Agent for D. C. Law 2-144 in designating the subject proposal as a project of special merit. These requirements included substantial setback requirements from the 15th Street facade.

14. The project architect testified that the existence of a through-block pedestrian circulation system and provision of an atrium as an amenity in the design approved by the Mayor's Agent, as well as the Mayor's Agent setback requirements, necessitate that the project be serviced by more than one penthouse and restrict options for its placement. The project architect further testified that the placement of the elevator housing at the southeast edge of the project is dictated by the need to keep the higher portions of the new construction as far removed as possible from the historic facades in accordance with the comments of the Commission of Fine Arts and the Mayor's Agent's approval. Therefore, the setback is over thirty feet from the edge of the building on the south, over 107 feet on the west and almost 200 feet on the north but is less than what is required for strict compliance with the Zoning Regulations on the east in that it is fourteen feet, eight inches from the eastern lot line. The Board so finds.

15. The abutting property to the east, Garfinckel's Department Store, contains several penthouse structures,

including a revision of the Commissioner's Height Schedule for buildings along 15th Street, and the closing of the alley in the square. The total project includes the removal of the existing portion of Rhodes Tavern. The proposed plan calls for retaining the landmark facades of the Keith-Albee Building and the National Metropolitan Bank along 15th Street at a height of ninety-five feet, with new construction rising to 130 feet at a distance forty-five feet back of the landmark facades. In addition, a new building element with a height of ninety-five feet is proposed for the space south of the National Metropolitan Bank Building facade, extending to F Street.

4. The design of the project was reviewed and approved by the Commission of Fine Arts on December 11, 1979. On February 11, 1980, the Mayor's Agent found the proposed project to be one of "special merit by virtue of exemplary architecture." The Mayor's Agent found that the alteration is one of exemplary architecture because of:

"the sensitive incorporation of the facade of the Keith-Albee Building along with that of the adjacent National Metropolitan Bank into the total project. The facades of these two structures create a major design impact at one of the most strategic locations along the ceremonial route between the Capitol and the White House. Visually and architecturally integral parts of the 15th Street financial district, these facades offer particular reinforcement to the monumentality and powerful rhythm of the colonnaded east side of the U.S. Treasury Building. They create a sense of ceremonial closure before the climactic turn of the route onto Pennsylvania Avenue toward the White House. The scale, massing, fenestration, and other details of the facades of the Keith-Albee and National Metropolitan Bank Building are continued into the new construction at the southwest corner of the block so that the sense of monumentality and rhythm is achieved along the entire 15th frontage."

5. In BZA Order No. 13132, dated February 27, 1980, the applicant received the approval of the Board pursuant to Sub-section 8207.2 and Paragraph 8207.11 for a special exception under Sub-section 3308.2 to allow more than one roof structure and variances from the open court width requirement of Sub-section 5305.1 to permit construction of the office and retail building comprising Phase I of the proposed redevelopment on this site. The Board denied the applicant's request in that application for a variance from the provisions set forth in Paragraph 5201.24 to allow two roof structures each measuring twenty-seven feet in height to serve both Phase I and Phase II of the subject redevelopment project.

6. Subsequently, the applicant revised its plans and eliminated the request for a penthouse exceeding 18.5 feet on the northern half of the structure. The applicant has further redesigned the proposed penthouse on the southern portion (Phase II) of the subject site so that the total area of penthouse exceeding the 18.5 foot height limitation is substantially smaller than in Application No. 13132.

7. Subsequent to the denial of the application for a variance from the prohibition upon roof structures greater than 18.5 feet in height in Case No. 13132, the Architectural Barriers Act of 1980, D. C. Law 3-76, became effective. Phase II of the construction proposed by the applicants is now subject to Section 1.11(11) of the Act which requires that:

To the maximum extent possible interior access in multi-story buildings shall be provided by elevators which shall be identified as usable by physically handicapped persons.

8. The applicant plans to construct Phase II of the Metropolitan Square project previously approved by the Fine Arts Commission and found to be a project of special merit by the Mayor's Agent. Phase II will include approximately 192,000 gross square feet of office space and 13,000 gross square feet of retail space in a development to include both a portion of the National Metropolitan Bank Building, one bay deep along 15th Street, and new construction, all generally in the southwest quadrant of Square 224. Because of the size, design features and setback constraints of the new development as well as the proposed roof terrace and the requirements of the D. C. Architectural Barriers Act, the applicant is seeking relief from both setback and height requirements of the elevator housing necessary for Phase II construction.

9. As proposed the elevator housing will be fourteen feet, eight inches from the east edge of the proposed building where the building abuts Garfinckel's, rather than the required twenty-six feet, ten inches. This can be approved by special exception. The variance requested is a variance from the provisions of Paragraph 5201.24 which allows roof structures to exceed the allowed building height by a maximum of 18.5 feet. The proposed elevator housing exceeds the allowed building height by twenty-six feet, ten inches, eight feet, four inches above the permitted roof structure height.

10. Sub-section 3308.2 of the Zoning Regulations states, "Where impracticable because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area which would tend to make full compliance unduly restrictive, prohibitively costly or unreasonable, the Board of Zoning Adjustment is empowered to

some of which are higher than that proposed in this application. Because of the existence of these higher penthouses on the western lot line of the Garfinckel's Department Store and the substantial setbacks well in excess of requirements on all other property lines, there is no adverse effect on light, air and ventilation of neighboring users that would occur by granting relief from the setback requirements of Sub-section 3308.2.

16. The applicant seeks to provide access to the roof terrace by the public, including the handicapped, by direct, highspeed elevator service. The project architect testified that the only way to provide such service efficiently for a project this size was by having part of the proposed new elevator penthouse extend eight feet four inches in excess of the height allowable pursuant to Paragraph 5201.24. The additional height is necessary to accommodate housing the passenger cab height and the mechanical equipment above the cab to provide such direct service to the roof terrace.

17. The project architect testified that underslung or sideslung elevators would not allow for adequate service of the entire proposed structure in that such an underslung elevator would have to be run on a separate system from the rest of the elevators. The architect further stated that addition of another elevator run for separate roof access is not practical because such would adversely interfere with the garage ramping system needed to meet service and warehousing requirements of the proposed new complex and Garfinckel's Department Store. The Board so finds.

18. The project architect testified that a series of line of sight analyses from the adjacent street frontages as well as from a 500 foot distance were undertaken, and that the visibility of the proposed penthouse override was minimal or nonexistent from virtually all of the sites studied. The Board so finds.

19. The project architect testified that the setbacks from the 15th Street frontage and the F Street frontage are so substantial that there would be no adverse aesthetic impact and no restriction of light, air, or ventilation of adjacent structures. The Board so finds.

20. The Office of Planning, by memorandum dated March 16, 1983, recommended that the application be approved. The Office of Planning reported that it generally favored active use of rooftop areas. Given the current requirement that elevator access be provided where rooftop facilities exist, the Office of Planning found the trade off very difficult between encouraging such uses and adding to the visual blight where buildings meet the sky. Often, there is no significant negative impact. As for Metropolitan Square, it is a special project because of its location, its size and

the integration of landmark facades with new development. It is also a project charged with added responsibility because of its special merit category and visually important site. The proposed rooftop terrace would be an important addition to the building.

21. There was opposition to the application on the issue of height. The opposition recommended consideration of other alternative means of allowing handicap access to the roof garden amenity, such as individual chair lifts and ramps. The project architect responded that such alternative system would create a security problem for the tenants occupying the top floor of the complex. Ramping would necessitate removal of virtually half the floor space. Individual chair lifts would not be practical for a building this scale. None of these alternatives would comply with the requirements of the Architectural Barriers Act. The Board concurs with the architect's findings.

22. The opposition testified that the proposed elevator override would in fact be visible from some distance away from the subject site. Photos were submitted in support thereof. The Board finds that there was no geometric perspective study done as a basis for this testimony, as was done in the line of sight drawings undertaken by the project architect. The Board finds that portions of the main penthouse which may be built as a matter of right measuring 18.5 feet in height substantially screen visibility of the elevator override from distances further away from the subject site. The Board further finds that any portion of the elevator override which might be visible from as far away as the south terrace of the Treasury Building or portions of Lafayette Park would be inconsequential and not aesthetically demeaning to structures in the White House Precinct, in any event, due to the substantial setback of the proposed elevator override from 15th Street.

23. A representative of the Cosmic Academy testified as to the inadvisability of allowing the proposed new construction to replace the historic Rhodes Tavern. The Board finds that these concerns were not germane to the issues pending before it.

24. Advisory Neighborhood Commission 2C by letter of March 16, 1983 reported that the ANC had received no comments on the application. The ANC submitted no formal recommendation on the application.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the application is seeking a special exception and an area variance. To obtain the special exception relief the applicant must establish that the requirements of

Sub-section 3303.2 have been met. To obtain the variance relief the applicant must establish that there exists a practical difficulty inherent in the site. As to the special exception, the Board concludes that the provision of an atrium in the approved design requires that the project be serviced by a second penthouse, restricts options for its placement and imposes undue design difficulties under strict adherence to Paragraph 5201.24. Furthermore, the Commission of Fine Arts and the Mayor's Agent's approval recommended the deep building setback to minimize the massing of new construction on the 15th Street frontage. The fact that the elevator housing is twelve feet, two inches too close to Garfinckel's will not have any impact on that structure's light and air. The penthouse itself, which abuts Garfinckel's, rises higher than the Garfinckel's building, and thus the elevator housing would have no additional impact. Also, some of the existing penthouses on the Garfinckel's Department Store are higher than that proposed in this application. The Board concludes that the applicant has met the burden of proof as to the special exception. The Board further concludes that the relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

As to the variance relief, the Board concludes that the cost of preservation and special merit design requires that the applicant maximize the amenities for users in order to attract the appropriate tenants. One such amenity is the proposed rooftop terrace.

The Board rejected a similar appeal in Application No. 13132, suggesting that no practical difficulty had been demonstrated, that stairs could be made available and that there would likely be negative visual impacts because the proposed elevator housing(s) would likely be visible from a distance. The applicant currently cites as a practical difficulty the D. C. Architectural Barriers Act which requires that the handicapped be provided with full access to the building. The Act was passed subsequent to action on the previous application. In the Office of Planning's opinion, the rooftop terrace is a reasonable and necessary feature of the project, and the Architectural Barriers Act does indeed create a practical difficulty. The rooftop terrace would afford a unique view of the White House, Ellipse and Tidal Basin. The Board concludes that without elevator access to the roof, the rooftop facility could not be provided.

The Board concludes that the practical difficulty does exist. The Board further concludes that the variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose

and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-1 (Carrie L. Thornhill, Maybelle Taylor Bennett and Charles R. Norris to grant, Douglas J. Patton to grant by proxy, William F. McIntosh opposed).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: AUG - 2 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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